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FLEISCHER, MARK A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,857

Applicant(s)

CRAWFORD ET AL.

Examiner

MARK A. FLEISCHER

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This Final Office Action is in reply to the amendments filed on 14 November 2008.
2. Claims 1, 21 and 22 have been amended.
3. Claim 2, 4, 8–20, 23 and 24 have been previously canceled.
4. Claims 1, 3, 5–7, 21 and 22 are currently pending and have been examined.

Response to Amendment

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.
6. The previous rejections of claims 1, 3, 5–7, 21 and 22 under 35 U.S.C. §112 2nd are withdrawn in light of Applicant's amendments to claims 1, 21 and 22 regarding the limitation "*wherein the selected common metric spans the product lifecycle and corresponds to each of the plurality of product phases...*". Examiner however maintains the rejections under 35 U.S.C. §112 2nd to claims 1, 21 and 22 for reasons set forth below.
7. The previous rejections of claims 1, 3, 5–7, 21 and 22 under 35 U.S.C. §101 are withdrawn in light of applicant's amendments.

Response to Arguments

8. Applicant's well-articulated arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Nevertheless, these new grounds are based on applicant's arguments which attempt to highlight the differences between the application and the prior art. Applicant essentially claims that the invention uses a "top-down" approach" (Remarks, p.9) and describes how the sequence of actions illustrates this approach in contrast to Nandigama. As noted in the rejections below, however, the additional prior art of Mendonça repeatedly makes reference to a "top-down" method and analysis versus a bottom-up approach

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(see e.g., Mendonça [abstract, p. 485, sections 2.0, 3.0, 3.2, 4.3 and 5] and further elucidated below. While applicant suggests that Nandigama teaches a different sequence of actions (as indicated in Remarks, p.9), a similar approach appears to be described as a "top-down" approach in Mendonça where the "Goal-Question-Metric Paradigm" (Mendonça, p.488, section 3.2) is described. Moreover, even if these labels (top-down, bottom-up) are construed differently between the two pieces of prior art, Mendonça, p.488, section 3.1 describes a sequence of steps in a "Measurement Framework" that first identifies metrics as indicated below in the claim rejections.

9. Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Furthermore, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. Although the motivation or suggestion to make modifications must be articulated, it is respectfully submitted that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969). The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re Delisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al* 192 USPQ 278 (CCPA) that:

(i) obvious does not require absolute predictability;

(ii) non-preferred embodiments of prior art must also be considered; and

(iii) the question is not express teaching of references but what they would suggest.

According to *In re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. Within *In re Bode*, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In *In re Conrad* 169 USPQ 170 (CCPA), obviousness is not based on express suggestions, but what references taken collectively would suggest and collectively the cited prior art therefore renders any differences between them and the instant application as obvious and predictable variations in applying metrics, goals and questions.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- Claims 1, 21 and 22 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim language of claims 1 and 21 states "*for each of the plurality of product phases, utilizing a processor to generate an amount of phase goals for the selected common metric...*" The meaning of this limitation is unclear in that the term "amount of phase goals" is described in the specification in a confusing manner, nor is the meaning apparent from the limitation itself. For instance, does this mean a number of goals for the common metric? Or does it refer to a quantity reflecting the degree to which a goal is achieved? The specification suggests that this is a number of goals—"...a large number of phase goals are generated..." (see Specification, p. 16, lines 21-2), but the term 'amount' is

suggestive of a physical quantity that also may involve non-integer values. Also, the act of 'generating' is unclear. The specification suggests some correlation based on the "weighted priority", hence an algorithm, but the act of generating itself is unclear in that it appears to be based on a table-lookup, which suggests an act of determining based on a data-structure, as opposed to using some algorithm or formula, hence these claims are incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the steps wherein a data structure for table look-up is effected, or the steps wherein some well-defined mapping or calculation is effected. As such this claim is vague and indefinite. For purposes of examination, Examiner interprets this to mean a number of phase goals, *i.e.*, an integer value, and the act of generating is one of determining.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 3, 5-7, 21 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Corral (US 20030188290 A1) in view of Nandigama, *et al.* (US PgPub 20040010441 A1) and further in view of Vouk (*Software Reliability Engineering*) and Mendonça, *et al.* (*Validation of an Approach for Improving Existing Measurement Frameworks*).

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Claim 1:

Corral, as shown, describes and/or discloses the following limitations:

- *A computer-implemented method comprising:*
 - *identifying a plurality of product phases that correspond to a product lifecycle* (Corral, from [0075] to [0082] states: "To document the Quality Management system, several documents are created: [...] a Process Description that describes all the processes within the corresponding Organization. Preferably, there is a description of the phases, the activities within the phases, and the tasks within the activities." (emphasis added) where 'several documents are created' corresponds to *identifying* and 'there is a description of the phases' corresponds to *a plurality of product phases...*);

Corral does not specifically describe and/or disclose the following limitation, but Nandigama, in an analogous art, does as shown.

- *selecting a common metric from a plurality of common metrics* (Nandigama [0031]: "Then, common metrics chosen by the managers [*sic*] can be used rather than a laundry list of metrics developed by a shotgun approach." (emphasis added));
- *wherein the selected common metric is applicable to each of the plurality of product phases* (Nandigama [0031]: "In addition, the database allows for multiple managers of a division to assign a relevance factor to metrics and question. [...] In one embodiment, the common metrics can be arrived at by finding the intersection of the metrics chosen by each manager." (emphasis added) where the 'relevance factor' indicates some degree of 'applicability' to each of the product phases and the 'multiple managers...' corresponds to and is suggestive of *a plurality of product phases*.);
- *identifying a weighted priority of the selected common metric* (Nandigama [0040]: "In one embodiment, the questions and metrics can be filtered and sorted so that

only questions or metrics having a threshold relevance are displayed. It should be appreciated that as used herein threshold relevance and weight factor can represent the same concept, which is a minimum degree of relevance in order to be further considered." (emphasis added));

- *wherein the amount of the phase goals generated for each of the plurality of product phases is dependent upon the weighted priority of the selected common metric* (Nandigama [0013]: "The program instructions for identifying questions include program instructions for assigning a question relevancy factor to each of the questions indicating a degree of relevance with each of the goals related to the questions." (emphasis added));
- *applying the generated number of phase goals for each of the plurality of product phases to their corresponding plurality of product phases* (Nandigama [0010]: "The mapping includes defining a relevancy of the question to the goal. Then, the question is mapped to the metric related to the question. The mapping here includes defining a relevancy of the metric to the question. Next, a threshold relevancy indicating a minimum relevancy for the metric to be related to the question and the question to be related to the goal is defined. Then, it is determined if the metric is required to indicate achievement of the goal." (emphasis added) where the term 'mapping' corresponds to *applying the ...goals ...to the phases*. Note also in [0009] reference is made to "a set of goals...to determine if the goals are being achieved." where 'set of goals' corresponds to a series of *phases*); and
- *executing each of the plurality of product phases using their corresponding generated number of phase goals* (Nandigama [0006]: "The selection of the proper metrics and implementation of those metrics in the correct process will guide an organization's process improvement towards sustained profitability." (emphasis added)).

Corral and Nandigama both describe the product development process with respect to software products and how various phases of the process are monitored and evaluated using various "common metrics", that are used "to assist organizations in standardization of the mapping of goals to metrics such that the data from the metrics is indicative of the organizations progress in achieving its goals." (Nandigama [0011]). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teaching of Corral and Nandigama and utilize common metrics in the product development process as it permits a greater product reliability and more objective monitoring of the development phases. This, in turn, can lead to greater product success and, hence, profitability.

Neither Corral nor Nandigama nor Vouk specifically describe and/or disclose the following limitation, but Mendonça, in an analogous art, does as shown.

- *for each of the plurality of product phases, utilizing a processor to generate an amount of phase goals for the selected common metric* (Mendonça, p. 485, Section 2.2 states "The GQM paradigm first step is to define measurement goals tailored to the specific needs of an organization. Goals are refined in a operational, tractable way, into a set of quantifiable questions. Questions in turn imply a specific set of metrics and data for collection." (emphasis added) which indicates a correspondence between metrics and the goals.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine and/or modify the evaluation and assessment methods of Corral, Nandigama and Vouk using the techniques of Mendonça because Mendonça specifically teaches the steps of defining goals, *i.e.*, a set or number of them given a set of metrics. Moreover, Mendonça also specifically teaches as a first step the identification of metrics and attributes (Mendonça, p. 488, section 3.1) and further describes using both a top-down and bottom-up approach to wit: "The top-down and bottom-up analyses are designed to be applied incrementally." and thus incorporates the disclosed invention.

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Consequently, the prior art teaches a known technique that is applicable to the methods of process driven quality measures and those in the art would have recognized applying the known technique would have yielded an improvement and was predictable.

Claim 3:

Corral further describes and/or discloses the following limitations:

- *receiving one or more feedback responses from one or more feedback sources* (Corral, in at least the abstract states: "Data relative to the quality processes is collected and aggregated to generate quality reports." (emphasis added) where the 'data relative...' corresponds to *feedback responses* and 'collected' corresponds to *receiving ... feedback* and *ipso facto* must come from a *feedback source*. Moreover, Corral in at least [0016] refers to a "feedback quality management action tracking process" and, hence, involves feedback sources.);
- *analyzing one of the feedback responses* (Corral, in at least the abstract goes on to state: "Reports are analyzed and problems are detected through a defect prevention process." (emphasis added) where the 'reports' that are 'analyzed' corresponds to the limitation.); *and*
- *generating each of the common metrics in response to the analysis* (Corral finally states in the abstract: "Quality actions are initiated in a feedback quality management action tracking process." (emphasis added) where the 'tracking process' corresponds to *generating ...the common metrics* that reflect an evaluation of the process.).

Claim 5:

Neither Corral nor Nandigama specifically describe and/or disclose the following limitations and elements therein, but Vouk, in an analogous art does as shown:

- *at least one of the feedback sources is selected from the group consisting of a customer survey, a help line response, a technical support response, and a field report* (Vouk, in at least page 1, col. 1, §2, para. 2 states: "In one case, SRE has been credited with reducing the incidence of customer-reported problems, and

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maintenance costs, by a factor of 10." (emphasis added) where 'customer...' corresponds to *the group ...customer survey* since customer-reported problems are typically determined using surveys which assess "customer satisfaction" as shown in Vouk in paragraph 1 of the same page. But see also Nandigama [0030] "the metric may be a customer quality index (CQI) which represent incidents or bugs in software delivered to a customer.").

Corral, Nandigama and Vouk all describe the product development process with respect to software products and how various phases of the process are monitored and evaluated using various metrics. An important data element as to quality is based on feedback data as illustrated in both Nandigama and Vouk. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teachings of Corral, Nandigama and Vouk and utilize information obtained through a feedback process to improve the product as it permits a greater product reliability and customer satisfaction which, in turn, can lead to greater product success and profitability and that such use of feedback information was known in the art and its utilization would have been predictable.

Claim 6:

Corral further describes and/or discloses the following limitation.

- *at least one of the plurality of product phases is selected from the group consisting of a planning phase (Corral [0049]), a design phase ([0319]), a development phase ([0051]), a test phase ([0051]), and a release phase (Corral, in at least [0319] states: "Common types of problems, [...] (education problems, oversight in the design phase) and common types of suggested actions (tools, documentation)."* See also [0277] and Table 35.)

Claim 7:

Corral describes and/or discloses the limitations of claim 1 as shown above. Corral further describes and/or discloses the following limitation.

- *the method is performed using an electronic computing device* (Corral, in at least claim 1 states: "A computer implemented method for operating a quality plan in a product development organization comprising a plurality of members and having quality objectives for product development projects [...]").

Claims 21:

Corral, as shown, describes and/or discloses the following limitations:

- *receiving one or more feedback responses from one or more feedback sources, the feedback responses corresponding to the product lifecycle* (Corral, in at least the abstract states: "Data relative to the quality processes is collected and aggregated to generate quality reports." (emphasis added) where the 'data relative...' corresponds to *feedback responses corresponding to the product lifecycle* and 'collected' corresponds to *receiving ... feedback*. Note also, that Corral in at least [0232] specifically refers to *product lifecycle* to wit: "The objective of Quality Inspections (QIs) is to find Rework Items. This should result in saving time and effort by preventing defects or issues in subsequent phases of the development life cycle." (emphasis added) where 'development life cycle' corresponds to *product lifecycle*.);
- *analyzing one of the feedback responses* (Corral, in at least the abstract goes on to state: "Reports are analyzed and problems are detected through a defect prevention process." (emphasis added) where the 'reports' that are 'analyzed' corresponds to the limitation.);
- *generating a common metric in response to the analysis* (Corral finally states in the abstract: "Quality actions are initiated in a feedback quality management action tracking process." (emphasis added) where the 'tracking process' corresponds to *generating ...the common metrics* that reflect an evaluation of the process.);

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- *identifying a plurality of product phases that correspond to the product lifecycle* (See the rejection of claim 1.);
- *selecting the common metric* (See the rejection of claim 1.);
 - *wherein the selected common metric is applicable to each of the plurality of product phases* (See the rejection of claim 1.);
 - *identifying a weighted priority of the selected common metric* (See the rejection of claim 1.);
- *applying the generated number of phase goals for each of the plurality of product phases to their corresponding plurality of product phases* (See the rejection of claim 1.);
- *executing each of the plurality of product phases using their corresponding generated number of phase goals* (See the rejection of claim 1.)

Corral and Nandigama both describe the product development process with respect to software products and how various phases of the process are monitored and evaluated using various "common metrics", that are used "to assist organizations in standardization of the mapping of goals to metrics such that the data from the metrics is indicative of the organizations progress in achieving its goals." (Nandigama [0011]). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teachings of Corral Nandigama and Vouk and utilize common metrics in the product development process as it permits a greater product reliability and more objective monitoring of the development phases. This, in turn, can lead to greater product success and, hence, profitability.

Neither Corral nor Nandigama nor Vouk specifically describe and/or disclose the following limitation, but Mendonça, in an analogous art, does as shown.

- *for each of the plurality of product phases, utilizing a processor to generate an amount of phase goals for the selected common metric, wherein the amount of the phase goals generated for each of the plurality of product phases is*

dependent upon the weighted priority of the selected common metric (See the rejection of claim 1.);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine and/or modify the evaluation and assessment methods of Corral, Nandigama and Vouk using the techniques of Mendonça because Mendonça specifically teaches the steps of defining goals, *i.e.*, a set or number of them given a set of metrics. Moreover, Mendonça also specifically teaches as a first step the identification of metrics and attributes (Mendonça, p. 488, section 3.1) and further describes using both a top-down and bottom-up approach to wit: "The top-down and bottom-up analyses are designed to be applied incrementally," and thus incorporates the disclosed invention. Consequently, the prior art teaches a known technique that is applicable to the methods of process driven quality measures and those in the art would have recognized applying the known technique would have yielded an improvement and was predictable.

Claim 22:

Corral, as shown, describes and/or discloses the following limitations.

- *A computer implemented method comprising:*
 - *receiving one or more feedback responses from one or more feedback sources, the feedback responses corresponding to the product lifecycle* (Corral, in at least the abstract states: "Data relative to the quality processes is collected and aggregated to generate quality reports." (emphasis added) where the 'data relative...' corresponds to *feedback responses corresponding to the product lifecycle* and 'collected' corresponds to *receiving ... feedback*. Note also, that Corral in at least [0232] specifically refers to *product lifecycle* to wit: "The objective of Quality Inspections (QIs) is to find Rework Items. This should result in saving time and effort by preventing defects or issues in subsequent phases of the development life cycle." (emphasis added) where 'development life cycle' corresponds to *product lifecycle*.);

- *analyzing one of the feedback responses, wherein the analyzing further includes assigning a weighted priority to correspond to the selected feedback response* (Corral, in at least the abstract goes on to state: "Reports are analyzed and problems are detected through a defect prevention process. Quality actions are initiated in a feedback quality management action tracking process." (emphasis added) where the reports that are analyzed are based, as noted above, on some assigned priority as also shown in Corral claim 4: "[...] the tracking process further comprises the steps of: recording the identified issue within an issue storing area of the at least one database; assigning to the issue priority, a resolution target date, and an organization member responsible; and communicating to members of the organization actions taken to resolve the issue item." (emphasis added) where 'actions taken...' correspond to *performing the analyzing...*);
- *generating a common metric in response to the analysis* (Corral finally states in the abstract: "Quality actions are initiated in a feedback quality management action tracking process." (emphasis added) where the 'tracking process' corresponds to *generating ...the common metrics* that reflect an evaluation of the process.);
- *identifying a plurality of product phases that correspond to a product lifecycle* (Corral, from [0075] to [0082] states: "To document the Quality Management system, several documents are created: [...] a Process Description that describes all the processes within the corresponding Organization. Preferably, there is a description of the phases, the activities within the phases, and the tasks within the activities." (emphasis added) where 'several documents are created' corresponds to *identifying* and 'there is a description of the phases' corresponds to *a plurality of product phases...*);

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- *applying the generated number of phase goals for each of the plurality of product phases to their corresponding plurality of product phases*; (Corral, in at least [0261] states: "Producing Process Metrics. As all processes regarding Quality Management are in a common platform and supported by the same tools, QMO tracks process performance and usage by applying metrics to the implemented workflows." (emphasis added) where the 'common platform' and 'same tools' indicates use of the *common metric*.); and

Corral does not specifically describe and/or disclose the following limitation, but Nandigama, in an analogous art, does as shown.

- *selecting the common metric wherein the selected common metric is applicable to each of the plurality of product phases* (See the rejection of claim 1.);
- *executing each of the plurality of product phases using their corresponding generated number of phase goals* (See the rejection of claim 1.).

Corral and Nandigama both describe the product development process with respect to software products and how various phases of the process are monitored and evaluated using various "common metrics", that are used "to assist organizations in standardization of the mapping of goals to metrics such that the data from the metrics is indicative of the organizations progress in achieving its goals." (Nandigama [0011]). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teaching of Corral and Nandigama and utilize common metrics in the product development process as it permits a greater product reliability and more objective monitoring of the development phases. This, in turn, can lead to greater product success and, hence, profitability.

Neither Corral nor Nandigama nor Vouk specifically describe and/or disclose the following limitation, but Mendonça, in an analogous art, does as shown.

- *for each of the plurality of product phases, utilizing a processor to generate an amount of phase goals for the selected common metric* (Mendonça, p. 485,

Section 2.2 states "The GQM paradigm first step is to define measurement goals tailored to the specific needs of an organization. Goals are refined in a operational, tractable way, into a set of quantifiable questions. Questions in turn imply a specific set of metrics and data for collection." (emphasis added) which indicates a correspondence between metrics and the goals.) *wherein the amount of the phase goals generated for each of the plurality of product phases is dependent upon the weighted priority of the selected common metric* (Mendonça, p. 487, Section 3 states "It is executed to capture the goals of the data users and to map these goals to the metrics and data in the MF." (emphasis added). Mendonça, p. 486, Section 2.2 states "Each structure will allow us to trace the goals of a certain user group to the measures that are intended to define them operationally." (emphasis added) where 'to define them...' indicates a dependency of the 'goals' on the measures.);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine and/or modify the evaluation and assessment methods of Corral, Nandigama and Vouk using the techniques of Mendonça because Mendonça specifically teaches the steps of defining goals, *i.e.*, a set or number of them given a set of metrics. Moreover, Mendonça also specifically teaches as a first step the identification of metrics and attributes (Mendonça, p. 488, section 3.1) and further describes using both a top-down and bottom-up approach to wit: "The top-down and bottom-up analyses are designed to be applied incrementally." and thus incorporates the disclosed invention. Consequently, the prior art teaches a known technique that is applicable to the methods of process driven quality measures and those in the art would have recognized applying the known technique would have yielded an improvement and was predictable.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Mark A. Fleischer** whose telephone number is **571.270.3925**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Bradley Bayat** whose telephone number is **571.272.6704** may be contacted.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free). Any response to this action should be mailed to:

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Mark A. Fleischer

/Mark A Fleischer/

Examiner, Art Unit 3624

8 January 2009

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 3624